

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

MELISSA V. PIERCE,

Plaintiff,

v.

Case No: 6:21-cv-398-GKS-PDB

**ACTING COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

ORDER

THIS CAUSE is an action brought pursuant to 42 U.S.C. § 405(g) to review the final decision of the Acting Commissioner of Social Security (Acting Commissioner) which comes before the Court upon two motions filed by Defendant Acting Commissioner. On May 5, 2021, Defendant filed an Opposed Motion Pursuant to Fed. R. Civ. P. 12(B)(1) to Dismiss Plaintiff's Complaint In Part (Motion to Dismiss) and Defendant's Unopposed Motion Stay of Proceedings (Doc. 15) which Plaintiff Opposed In Part (Doc. 19). Thereafter, on July 28, 2021, the Commissioner filed an Unopposed Motion for Entry of Judgment with Reversal and Remand of the Cause to Defendant (Doc. 22), which Plaintiff did not oppose. The

Court referred the Motions to the United States Magistrate Judge for a report and recommendation (Report and Recommendation).

On September 10, 2021, the United States Magistrate Judge issued a Report and Recommendation (Doc. 23), recommending that Defendant's Motion be granted, and the Acting Commissioner's decision be reversed and remanded. Neither party has filed any objections to the Report and Recommendation.

After review and consideration of the Report and Recommendation and noting that neither party objects to the Report and Recommendation, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. United States Magistrate Judge Patricia D. Barksdale's Report and Recommendation (Doc. 23) is **APPROVED** and **ADOPTED** and is made part of this Order for all purposes, including appellate review.
2. Defendant's Motion to Remand is **GRANTED** (Doc. 22).
3. The Acting Commissioner's decision is **REVERSED** under sentence four of 42 U.S.C. § 405(g).
4. The action is **REMANDED** for the Acting Commissioner to "obtain the prior medical evidence that underlined the comparison point decision or to follow the procedures laid out in 20 C.F.R. § 404.1594(b) if the prior medical evidence cannot be found" to "determine whether medical improvement occurred by comparing the prior and current medical evidence of record."

5. Defendant's Motion to Dismiss is DENIED as MOOT (Doc. 15).

6. The Clerk of Court is DIRECTED to enter judgment in favor of Melissa Pierce and against Defendant Acting Commissioner of Social Security, TERMINATE all motions, and CLOSE THE CASE.

DONE AND ORDERED at Orlando, Florida, this 30 day of September, 2021.



G. KENDALL SHARP
SENIOR UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record
Unrepresented Parties